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**Board of Vocational Nursing
and Psychiatric Technicians**

**BEFORE THE
BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. VN-2010-4103

ERICA CRYSTAL RODRIGUEZ
12120 Braddock Drive
Culver City, CA 90230

A C C U S A T I O N

Vocational Nurse License No. VN 211584

Respondent.

Complainant alleges:

PARTIES

1. Teresa Bello-Jones, J.D., M.S.N., R.N. (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Board of Vocational Nursing and Psychiatric Technicians, Department of Consumer Affairs (Board).

2. On or about October 18, 2004, the Board issued Vocational Nurse License No. VN 211584 to Erica Crystal Rodriguez (Respondent). The Vocational Nurse License expired on October 31, 2012, and has not been renewed.

JURISDICTION

3. This Accusation is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

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STATUTORY PROVISIONS

4. Section 118, subdivision (b), provides that the expiration of a license shall not deprive the Bureau jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated. Under section 2892.1, the Bureau may renew an expired license at any time within four (4) years after the expiration.

5. Section 490 provides that the Board may suspend or revoke a license when it finds that the licensee has been convicted of a crime substantially related to the qualifications, functions or duties of a licensed vocational nurse.

6. Section 2875 provides that the Board may discipline the holder of a vocational nurse license for any reason provided in Article 3 (commencing with section 2875) of the Vocational Nursing Practice Act.

7. Section 2878 states, in pertinent part:

"The Board may suspend or revoke a license issued under this chapter [the Vocational Nursing Practice Act (Bus. & Prof. Code, 2840, et seq.)] for any of the following:

"(a) Unprofessional conduct, . . .

....

"(d) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violating of, or conspiring to violate any provision or term of this chapter.

....

"(f) Conviction of a crime substantially related to the qualifications, functions, and duties of a licensed vocational nurse, in which event the record of the conviction shall be conclusive evidence of the conviction. . . ."

8. Section 2878.5 states, in pertinent part:

In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Vocational Nursing Practice Act] it is unprofessional conduct for a person licensed under this chapter to do any of the following:

....

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"(b) Use any controlled substance as defined in Division 10 of the Health and Safety Code, or any dangerous drug as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public, or to the extent that the use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.

"(c) Be convicted of a criminal offense involving possession of any narcotic or dangerous drug, or the prescription, consumption, or self-administration of any of the substances described in subdivisions (a) and (b) of this section, in which event the record of the conviction is conclusive evidence thereof. . . ."

REGULATORY PROVISION

9. California Code of Regulations, title 16, section 2518.6 states, in pertinent part:

(b) A licensed vocational nurse shall adhere to standards of the profession and shall incorporate ethical and behavioral standards of professional practice which include but are not limited to the following:

• • • •

(4) Abstaining from chemical/substance abuse;

• • • •

10. California Code of Regulations, title 16, section 2521 states, in pertinent part:

"For the purposes of denial, suspension, or revocation of a license pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a crime or act shall be considered to be substantially related to the qualifications, functions or duties of a licensed vocational nurse if to a substantial degree it evidences present or potential unfitness of a licensed vocational nurse to perform the functions authorized by his license in a manner consistent with the public health, safety, or welfare. Such crimes or acts shall include but not be limited to those involving the following:

• • • •

"(c) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate any provision or term of Chapter 6.5, Division 2 of the

1 Business and Professions Code. . . .”

2 **COST RECOVERY**

3 11. Section 125.3 provides that the Board may request the administrative law judge to
4 direct a licensee found to have committed a violation or violations of the licensing act to pay a
5 sum not to exceed the reasonable costs of the investigation and enforcement of the case.

6 **FIRST CAUSE FOR DISCIPLINE**

7 **(Conviction of a Substantially Related Crime)**

8 12. Respondent is subject to disciplinary action under sections 490 and 2878,
9 subdivision (f), in that on or about May 13, 2011, Respondent was convicted of a crime
10 substantially related to the qualifications, functions or duties of a licensed vocational nurse which
11 to a substantial degree evidences her present or potential unfitness to perform the functions
12 authorized by her license in a manner consistent with the public health, safety, or welfare. The
13 circumstances of the conviction are as follows:

14 a. On or about May 13, 2011, after pleading nolo contendere and admitting to sustaining
15 a prior driving while under the influence conviction, Respondent was convicted of one
16 misdemeanor count of violating Vehicle Code section 23152(b) [drive with an equal to or greater
17 than 0.08% blood alcohol content (BAC), to wit, 0.17% BAC] in the criminal proceeding entitled
18 *The People of the State of California v. Erica Crystal Rodriguez* (Super. Ct. Los Angeles County,
19 2011, No. 1MP04372). The Court sentenced Respondent to 96 hours jail, placed her on 36
20 months probation, ordered her to complete an 18-Month Second-Offender Alcohol Program, and
21 other drug education and counseling program and ordered her to complete 12 days community
22 labor (in lieu of a fine) and enroll in a SB-38 DUI program .

23 b. The circumstances underlying the conviction are that on or about April 15, 2010,
24 Respondent drove a vehicle in an unsafe manner. During the stop, the officer noticed an odor of
25 alcoholic beverage emitting from the Respondent's vehicle and that Respondent's eyes appeared
26 to be red and watery and her speech was slurred. Respondent was asked to perform field sobriety
27 tests which she was unable to do. She subsequently was found to be under the influence of
28 alcohol at a tested 0.18/0.17% BAC.

1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Alcohol Related Conviction)**

3 13. Respondent is subject to disciplinary action under section 2878, subdivisions (a),
4 and 2878.5, subdivision (c), on the grounds of unprofessional conduct, in that on or about
5 May 13, 2011, Respondent was convicted of crime involving the consumption of alcoholic
6 beverages. Complainant refers to and by this reference incorporates the allegations set forth
7 above in paragraph 12, subparagraphs a and b, inclusive, as though set forth fully.

8 **THIRD CAUSE FOR DISCIPLINE**

9 **(Dangerous Use of Alcohol)**

10 14. Respondent is subject to disciplinary action under sections 2878, subdivisions (a),
11 and 2878.5, subdivision (b), on the grounds of unprofessional conduct, in that on or about
12 April 15, 2011, Respondent dangerously used alcoholic beverages to an extent or in a manner
13 dangerous or injurious to herself or others. Complainant refers to and by this reference
14 incorporates the allegations set forth above in paragraphs 12 and 13, inclusive, as though set forth
15 fully.

16 **FOURTH CAUSE FOR DISCIPLINE**

17 **(Unprofessional Conduct / Violate the Act)**

18 15. Respondent is subject to disciplinary action under section 2878, subdivision (a) and
19 California Code of Regulations 2518.6(b)(4) in the Respondent committed acts of unprofessional
20 conduct, and/or acts violating the Vocational Nursing Practice Act where she failed to abstain
21 from chemical/substance abuse. Complainant refers to and by this reference incorporates the
22 allegations set forth above in paragraphs 12 - 14, inclusive, as though set forth fully.

23 **FIFTH CAUSE FOR DISCIPLINE**

24 **(Unprofessional Conduct / Violate the Act)**

25 16. Respondent is subject to disciplinary action under section 2878, subdivision (d) and
26 California Code of Regulations 2521, in the Respondent committed acts of unprofessional
27 conduct, and/or acts violating the Vocational Nursing Practice Act. Complainant refers to and by
28 this reference incorporates the allegations set forth above in paragraphs 12 - 14, inclusive, as

1 though set forth fully.

2 **DISCIPLINE CONSIDERATIONS**

3 17. To determine the degree of discipline, Complainant alleges that:

4 a. On or about July 3, 2007, the Board issued a "Notice of Warning" to Respondent
5 based upon Respondent sustaining a substantially related conviction for wet and reckless driving
6 in 2005.

7 b. On or about October 5, 2005, after pleading nolo contendere, Respondent was
8 convicted of one amended misdemeanor count of violating Vehicle Code section 23103(5) [wet
9 reckless] in the criminal proceeding entitled *The People of the State of California v. Erica Crystal*
10 *Rodriguez* (Super. Ct. Santa Barbara County, 2005, No. 1204888). The Court sentenced
11 Respondent to two (2) days jail, placed her on three (3) years probation, and ordered her to
12 complete 12 hours of Alcohol Counseling.

13 c. The circumstances underlying the conviction occurred on or about August 13, 2005.
14 Respondent was observed to be on the shoulder of SR-154 in an unsafe place on the road.
15 Respondent's car was located on the other side of the freeway. Respondent and a male subject
16 attempted to cross the highway in an unsafe manner causing several cars to have to break hard
17 and honk their horns to avoid hitting Respondent and her companion. Respondent did return to
18 the car where her young daughter was standing in the back seat of the car without a safety seat.
19 Respondent was unable to complete Field Sobriety Tests and was arrested.

20 **PRAAYER**

21 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
22 and that following the hearing, the Board of Vocational Nursing and Psychiatric Technicians
23 issue a decision:

24 1. Revoking or suspending Vocational Nurse License No. VN 211584, issued to Erica
25 Crystal Rodriguez;

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- 1 2. Ordering Erica Crystal Rodriguez to pay the Board the reasonable costs of the
2 investigation and enforcement of this case, pursuant to section 125.3; and
3 3. Taking such other and further action as deemed necessary and proper.

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5 **MAY 13 2013**
6 DATED: _____



TERESA BELLO-JONES, J.D., M.S.N., R.N.
Executive Officer
Board of Vocational Nursing and Psychiatric Technicians
Department of Consumer Affairs
State of California
Complainant

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